

REMARKS

Reconsideration of this application and the rejection of the claims is respectfully requested. Applicants have attempted to address every objection and ground for rejection in the Office Action dated October 9, 2009 (Paper No. 20091007) and believe the application is now in condition for allowance. The claims have been amended to more clearly describe the present invention.

This is a final rejection. A Request for Continued Examination is being filed herewith to ensure entering of this amendment as a matter of right.

New claim 66 is presented for the Examiner's consideration. In this new claim, the reinforcement is provided by a filler material that can flow freely within the cavity (page 6, line 24 as filed) so that the filler can flow to all accessible regions of the cavity between the upper and lower members (page 11, lines 28, 29) and which hardens in the cavity to form the inner core (page 6, lines 7 to 9 and page 13, lines 5 to 16). Applicants believe that this claim is fully supported by the description and does not introduce new matter.

Claim 65 stands rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description. The claim has been amended to remove the phrase "in situ during which time said filler flows freely within said cavity" has been removed. As amended this claim is supported on page 6, lines 7-8 and by originally filed claim 35. Applicants submit that, as amended, claim 65 complies with the written description and the rejection should be withdrawn.

Claims 41, 48, 50-52, 55, 62 and 64 stand rejected under 35 U.S.C. § 102(b) as being anticipated by DE 107 46 944 to Huber. Applicants maintain that Huber fails to disclose every feature of Applicants' claims. The Examiner argues that the mesh core in Huber reinforces the underside of the floor and extends throughout the cavity between the upper and lower skins and that the recesses in the lower skin of Huber provide holes to release air. Applicants respectfully disagree with the Examiner's assessment of Huber.

Regarding the mesh core in Huber, this is restricted to the floor region (base area 5 in Figure 2) of the shower tray and does not reinforce the ledge region (hollow space 15 in figure 2) of the shower tray that surrounds the well and is formed between the upper and lower members. The mesh does not extend throughout the cavity (base area 5 and hollow space 15) formed between the upper and lower members in Huber.

As to the recesses of Huber, these receive support bolts (21) that can be used for height adjustment (to level the tray). The recesses are not holes but are more like sockets that are closed off from the base area (5) in which the mesh is received. Indeed the disclosure actually refers to the recesses extending through the mesh and contacting the underside of the upper skin to increase load capacity. This clearly indicates the recesses are like sockets having a wall and a base that will support the upper skin. If, as the Examiner suggests, the recesses were simply holes in the lower skin, they would not perform the functions described in Huber. Furthermore when discussing dependent claim 50 of the subject application, the Examiner says the socket of claim 50 is provided by the same

recesses (17) he has previously indicated are holes. This is inconsistent and supports our position that the recesses (17) are to be considered as providing sockets rather than holes.

Thus Huber fails to describe all features of claim 41 since neither the holes nor the filler that extends throughout the cavity. Claims dependent on claim 41 should also be found to be novel at least for the same reasons.

Regarding claim 64, the Examiner asserts that recesses (17) in the lower member of Huber provide a means for releasing air. As previously explained, recesses (17) are not holes but in fact provide sockets to receive support bolts. The recesses (17) are not described as being open to the base area (5) containing the mesh reinforcement and are clearly not intended or capable of releasing air.

In addition, the Examiner asserts that Huber discloses that the core extends throughout a cavity defined between the upper and lower members in the region of the outer side wall, upper wall and well such that the core provides strength and rigidity to the shower tray. We respectfully disagree with the Examiner.

Attached are copies of Figure 11 of the present application and Figure 2 of Huber on which Applicants have indicated the floor and inner walls defining the well in the upper surface, the outer side wall at the outer peripheral edge of the upper surface and the upper wall extending between the well and the outer side wall. As can be seen in Figure 11 of the present application, the core (8) fills a cavity defined between the upper member (7) and lower member (9) - remember Figure 11 shows the tray inverted for manufacture and the

tray would be other way up in use - in the region of the outer side wall, the upper wall and the well. Thus the core supports the whole of the upper surface of the shower tray.

In contrast, as can be seen in Figure 2 of Huber, the mesh reinforcement (7) provides support for the floor region of the well only. The mesh does not extend to and fill a cavity between the upper and lower members in the region of the inner wall of the well, the upper wall and outer side wall of the shower tray. Indeed in Huber the upper and lower members of the shower tray are cemented or welded together in the region of the inner wall of the well and there is no cavity for the mesh reinforcement in this region.

Therefore, Huber again fails to reveal every feature of Applicants' claims. Huber cannot anticipate the instant claims were each and every feature of the claims is not disclosed. Claim 64, which depends from claim 62, should be found to be patentable for the same reasons.

Applicants have shown that the reference cannot anticipate independent claims 41 and 62. Claims dependent on either of these independent claims should be patentable at least because they depend from patentable claims. Applicants respectfully request that the rejection be withdrawn and the subject claims be allowed to issue.

Claim 54 stands rejected under 35 U.S.C. § 102(e) as being anticipated by or, alternatively, stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Huber. Arguments asserted above with respect to claim 1 are reasserted here. Since at least two

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features of claim 54 are not suggested by Huber, the reference cannot anticipate or render obvious Applicants' claims. Reconsideration of claim 54 is respectfully requested.

Claims 42 and 65 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Huber in view of U.S. Patent Application Publication No. 2004/0126557 to Thiele. Thiele is relied upon to teach the use of a resin mix. Arguments asserted above with respect to claims 41 and 62 are reasserted here. Thiele fails to disclose either of the claimed features absent in Huber. Thus, claims 42 and 65 are patentable at least because they depend from patentable independent claims. Reconsideration of claims 42 and 65 is respectfully requested.

Claim 43 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Huber in view of Thiele and U.S. Patent No. 4,414,385 to Swanson. Arguments asserted above with regard to Swanson in view of Thiele are reasserted here. Swanson is relied upon to teach the use of a mixture of limestone and calcium carbonate. This teaching of Swanson does not overcome the deficiencies of Huber and Thiele in failing to disclose a filler throughout the cavity and a means to allow air to escape the cavity. Therefore, Applicants respectfully request that the rejection be withdrawn and the claim be allowed to issue.

Claims 44-47 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Huber in view of Thiele and U.S. Patent Application Publication No. 2003/0008164 to Klepsch. Arguments asserted above with regard to Swanson in view of Thiele are reasserted here. Klepsch is relied on for the teaching of an outer layer of scratch-resistant material on

the upper member wherein the outer layer is an acrylic layer and said layer underneath said outer layer is an acrylonitrile butadiene styrene layer with the ration o f the ABS to the acrylic layer is 9:1. This teaching of Klepsch does not overcome the deficiencies of Huber and Thiele in failing to disclose a filler throughout the cavity and a means to allow air to escape the cavity. Therefore, Applicants respectfully request that the rejection be withdrawn and claims 44-47 be allowed to issue.

Claims 49, 52-53 and 56-57 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Huber. Arguments asserted above with respect to Huber's lack of disclosure of at least two claimed features are reasserted here. Each of claims 49, 52-53 and 56-57 depends from claim 1. Therefore, they should be found patentable because claim 1 is not anticipated by Huber. Applicants respectfully request that the rejection be withdrawn and the subject claims be allowed to issue.

It is submitted the amended claims are novel and inventive over Huber. Applicants submit that in view of the above-identified amendments and remarks, the claims in their present form are patentably distinct over the art of record. Allowance of the rejected claims is respectfully requested. Should the Examiner discover there are remaining issues

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which may be resolved by a telephone interview, he is invited to contact Applicants' undersigned attorney at the telephone number listed below.

Respectfully submitted,

GREER, BURNS & CRAIN, LTD.

/carole a. mickelson/

By

Carole A Mickelson
Registration .No. 30,778

February 3, 2010
300 S. Wacker Drive – Suite 2500
Chicago, Illinois 60606-6501
Telephone: (312) 360-0080
Facsimile: (312) 360-9315
Customer No. 24978